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5800 MAUDINA AVENUE
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COPY MAILED

AUG 21 2007

In re Application of :
Jianhua fan :
Application No. 10/050,661 :
Filed: January 16, 2002 :
For: EASY MOP :

OFFICE OF PETITIONS

ON PETITION

This is in response to the communication, filed November 27, 2006, which is being treated as a petition under 37 CFR 1.181(a) (no fee) to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." See 37 CFR 1.181(f).

A first petition to revive was filed under the unintentional provisions of 37 CFR 1.137(b) on February 6, 2006, and was dismissed on October 16, 2006 as failing to submit the reply and fee required by 37 CFR 1.137(b)(1) and (b)(2), respectively. Rather than renewing the petition under 37 CFR 1.137(b), petitioner now petitions to withdraw the holding of abandonment based on failure to receive the Office action mailed June 9, 2005, which set a three month shortened statutory period to reply. No timely reply having been received, the application became abandoned on September 10, 2005.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

The Office follows the guidelines set forth in MPEP Section 711.03(c) (see also "Withdrawing the Holding of Abandonment When Office actions Are not Received," 1156 Official Gazette 53 (November 16, 1993), which sets forth that, in the absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to the applicant at the address of record. This presumption may be overcome by a showing that the June 9, 2005 final Office action was not in fact received. The showing required to establish the failure to receive the June 9, 2005 final Office action must include a statement from the applicant stating that the Office action was not received by applicant and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of

the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in applicant's statement.

As petitioner is a pro-se applicant, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the final Office action of June 9, 2005, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after the mailing of the June 9, 2005 Office action, to demonstrate non-receipt of the Office action and to demonstrate that mail was being received at the address of record. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Office action, and indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the June 9, 2005 final Office action was not found. Unfortunately, petitioner's mere statement in the petition that mails are frequently lost is insufficient by itself to support a showing that the Office action of June 9, 2005 was not received.

In the present petition, petitioner did not submit any statements, documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the June 9, 2005 Office action. Therefore, the petition to withdraw the holding of abandonment must be dismissed.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a renewed petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
- (2) The petition fee as set forth in 37 CFR 1.17(m), **\$750.00 for a small entity;**

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A \$750 fee is due for reviving this application under the unintentional provisions of 37 CFR 1.137(b)(2).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3218.


Frances Hicks
Petitions Examiner
Office of Petitions